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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 25.7.2007.

Smt.Devki Devi widow of Chandan Singh,
resident of Parvatia Colony, Faridabad NIT
and others

... Appellants.

vs

General Public and others.

.... Respondents.

Before : Hon'ble Mr. Justice R.S.Madan.

Present: None for the appellants.
Mr.R.S.Chauhan, Advocate,for respondent no.3.

R.S.Madan, J.

This appeal is directed against the order dated 23.8.1999 passed by the learned Civil Judge (Senior Division), Faridabad, vide which he dismissed the petition No.245 of 12.12.1994, filed under Section 372 of the Indian Succession Act, 1925, by Devki Devi and others and accepted the petition No. 185 of 4.8.1995 filed by Parvati Devi and others.

Brief facts of the case are that the appellant Devki Devi alongwith her daughter Ms.Bhagwati and other five minors children has filed a petition under Section 372 of the Indian Succession Act, stating therein that she is the widow, and appellants no.2 to 7 and respondent no.4 are the sons and daughters of deceased Chandan Singh son of Heera Singh, who was expired on 9.9.1991. It is alleged therein that respondent no.3 Parvati Devi was the first wife of deceased Chandan Singh but the marriage between Parvati Devi and Chandan Singh was dissolved in a panchayat but no decree of divorce was obtained from the court of law. It was further

alleged that the deceased Chandan Singh was employed in M/s. Escorts Limited, and he left an amount of Rs.25,456/- in his provident fund. She, thus, prayed for the issuance of succession certificate in her favour in respect of the aforesaid amount.

Respondent no.3 Parvati Devi while appearing in petition no.245 dated 21.12.1994, filed objections regarding the maintainability of the petition, locus standi of the appellants to file it and denied that the appellant Devki Devi is the legally wedded wife of Late Chandan Singh and the appellants no.2 to 7 are the legitimate children of Late Chandan Singh. She submitted that her marriage with Chandan Singh was never dissolved. She also submitted that succession certificate in respect of the deposits mentioned in the petition filed by Devki Devi and other deposits lying in the name of deceased Chandan Singh may be issued in favour of her and her children.

On the other hand, M/s. Escorts Limited with whom the deceased Chandan Singh was employed and with whom the said deposits are lying submitted that the gratuity amount is only Rs.13,623/- and not Rs.23,000/-, while the workers relief fund is approximately Rs.33,000/- and not Rs.50,000/-.

The trial court on the request of both the parties, consolidated both the petitions. On the pleadings of the parties, the learned trial court framed the following issues:-

1. Whether the petitioner is entitled to grant of succession certificate as alleged? OPP
2. Whether the petition is not maintainable? OPR
3. Whether respondent No.3 is entitled to grant of

succession certificate as alleged? OPR

4. Relief.

Both the parties led evidence in support of their respective claims.

In order to prove that she is the legally wedded wife of Chandan Singh deceased and the co-appellants were born from the said wed-lock, Devki Devi stepped into the witness-box as PW1 and reiterated her stand as made in her petition. Except, her bald statement, no other evidence was led by her.

On the other hand, respondent no.3 Parvati examined Beer Singh, UDC RPRC as RW1 and herself as RW2. She also tendered in evidence the documents copy of plaint, Ex.R1, copy of judgment Ex.R2, copy of judgment vide which succession certificate was revoked Ex.R3, copy of Form Ex.R4 and R5, copy of death certificate Ex.R6, proof of marriage Ex.P7, copy of order regarding maintenance to Parvati Ex.P8, letter received from the employer of the deceased Ex.P9, and copy of order Ex.P10.

After going through the evidence brought on the record, the learned trial court dismissed the petition filed by Devki Devi and accepted the petition filed by Parvati Devi and her children and held that they have a right on the estate of deceased Chandan Singh and ordered for issuance of succession certificate in their favour.

Aggrieved against the impugned order passed by the learned Civil Judge (Senior Division), Faridabad, the appellants have knocked the doors of this court.

Heard.

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I have gone through the evidence led by the parties before the learned trial court and have also carefully perused the bald statement of Smt.Devki Devi. She had deposed that she was married in the year 1983 with Chandan Singh and her co-appellants were born from the said wedlock. There is nothing on record to establish that she was married to Chandan Singh son of Heera Singh. There is also an admission of appellant Devki Devi that prior to her marriage, the deceased was married to Parvati Devi and the said marriage was dissolved in a panchayat but no decree of divorce was obtained from court of law. However, the fact that marriage of Chandan Singh with Parvati Devi has been admitted by Devki Devi. Parvati Devi has denied the dissolution of her marriage with Chandan Singh. Parvati Devi has placed on record various documents in support of her claim. As per Hindu Marriage Act, once marriage takes place between the parties, the divorce cannot be given effect without obtaining a decree of divorce from a competent court of jurisdiction. The marriage could not be dissolved by a panchayat or by mutual agreement between before the panchayat. Such a divorce is meaningless and is not recognised by the court.

After taking all these facts into consideration, I find that the trial court has not committed any illegality in accepting the petition of Parvati Devi and dismissing that of Devki Devi appellant. In this view of the matter, the appeal is dismissed, without any order as to costs.

25.7.2007. (R.S.Madan)
vs. Judge.